

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Franz SCHORN

Serial No: 10/538,398

Examiner: Hwu, D.

Filed: June 9, 2005

Group Art Unit: 3752

Conf. 2266

For: SHOWER HEAD WITH AIR INTRODUCTION

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Responsive to the Requirement of Restriction mailed June 7, 2007, applicant provisionally elects for further prosecution the species identified as Species 3, Figures 4-12. This election is made with traverse, because the Restriction Requirement is grounded on one or more errors, as discussed below, as to whether there are patentable distinctions between the embodiments and/or in sorting the figure numbers into identified species.

Reconsideration and modification of the Restriction Requirement are requested.

Applicant suggests that the examiner modify the Restriction Requirement and accept as applicant's election the species of Figs. 4 and 7-14. The claims that read on this species are claims 1-3, 7, 9-14 and 32. Claims 1 and 2 are generic. Applicant attaches a clean copy of the claims as amended in the Preliminary Amendment filed with the application.

In the Restriction Requirement stated in the official action of June 7, 2007, certain figures are assigned at the same time to two different identified species (Figs. 9-12 are listed for both Species 2 and 3). In the specification, Fig. 7 is described as applicable to the depictions of both Figs. 3 and 4, but according to the Restriction Requirement, Figs. 3 and 4 are separated into Species 2 and 3. These aspects show

that the separation of figure numbers into Species 2 and 3 is erroneous as the Restriction Requirement is stated in the official action.

Additionally, applicant requests reconsideration of the separation of Figs. 11 and 12 in elected Species 3, versus Figs. 13 and 14 as distinct Species 4, and rejoinder of Figs. 13 and 14 as part of the same species as Figs. 11 and 12. The embodiments in these figures differ in that the jet guides in Figs. 13-14 are inclined (mentioned in claim 12). Applicant has elected Species 3, which encompasses Figs. 11-12. Applicant hereby states for the record that the difference between Figs. 11-12 and Figs. 13-14 (compare 72 and 172 in Figs. 11 and 13) is not an independent patentable distinction. Figs. 13-14 thus are merged into the elected Species 3.

This Response is complete in that applicant has provided a provisional election and an identification of claims that read on the elected species, insofar as possible in view of the points made above. Applicant requests examination of the claims to the elected species.

This Response is filed with a Petition for Extension under Rule 1.136(a). The required official fee is submitted by EFS charge authorization. Please charge any underpayment or credit any overpayment to Deposit Account 04-1679.

Respectfully submitted,

Date: September 5, 2007

Atty. Docket No. D4700-00395
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